

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Central Illinois Public Service Company	:	
d/b/a AmerenCIPS	:	
	:	07-0532
Petition for a Certificate of Public	:	
Convenience and Necessity, pursuant	:	
To Section 8-406 of the Illinois Public	:	
Utilities Act, to construct, operate and	:	
Maintain new 138,000 volt electric lines in	:	
Madison County, Illinois.	:	

**BRIEF ON EXCEPTIONS OF THE STAFF OF THE
ILLINOIS COMMERCE COMMISSION**

Pursuant to Section 200.830 of the Illinois Commerce Commission's ("Commission") Rules of Practice, 83 Ill. Adm. Code 200.830, Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned counsel, respectfully submits this Brief on Exceptions to the March 12, 2009 Administrative Law Judge's Proposed Order ("Proposed Order") issued in this proceeding initiated by Central Illinois Public Service Company d/b/a AmerenCIPS ("AmerenCIPS" or the "Company"). In the instant proceeding, AmerenCIPS requested a Certificate of Public Convenience and Necessity ("Certificate") pursuant to Section 8-406 of the Illinois Public Utilities Act (the "Act"), 220 ILCS 5/8-406, authorizing the Company to construct, operate, and maintain two new 138 kilovolt ("kV") electric lines (the "Transmission Lines"), COP Sub Tap 1 ("Line 1") and COP Sub Tap 2 ("Line 2"). AmerenCIPS also

requested an Order pursuant to Section 8-503 of the Act, 220 ILCS 5/8-503, directing that the Transmission Lines be built.

Consistent with its position throughout the instant proceeding, Staff takes exception to the Proposed Order with respect to the issue of whether the Commission should issue a Section 8-503 Order for both, or only one, of the Transmission Lines that AmerenCIPS proposes to construct.

I. STAFF'S ASSERTION THAT THE SECOND 138 Kv TRANSMISSION LINE THAT AMERENCIPS PROPOSES IS MERELY TO IMPROVE RELIABILITY TO WRR IS ACCURATE AND BASED UPON THE RECORD

As the Proposed Order correctly states, the issue disputed in this proceeding is whether a Section 8-503 Order is warranted for both transmission lines that AmerenCIPS proposed, or for only one of the lines. (Proposed Order, p. 12) Staff concluded that since only one of the proposed lines was needed to provide adequate service to the Wood River Refinery ("WRR"), and the second line was proposed as a result of WRB Refining, LLC's ("WRB") request for a second line, only one of the lines warranted a Commission Order pursuant to Section 8-503 of the Act. (ICC Staff Exhibit 1.0, ll. 221-261) The Proposed Order, without support, rejects Staff's position regarding the need for the second 138 kV transmission line that AmerenCIPS proposes. The Proposed Order concludes that Staff's assertion that the second 138 kV transmission line is proposed merely to improve reliability for WRR is simplifying the matter. (Proposed Order, p. 14) However, Staff stands by this assertion. It is undisputed that the reason AmerenCIPS proposed the second 138 kV line is that WRB, the

owner of WRR, requested it. (AmerenCIPS Exhibit 1.0, ll. 113-114; ICC Staff Exhibit 2.0, pp. 2-3) To be clear, the two proposed 138 kV lines will not supply electricity to any customers other than WRR. In fact, the line proposed for the route designated as COP Sub Tap 1 consists of an extension of the 138 kV line that presently supplies BOC Gases, an existing AmerenCIPS customer. This extension, if built, would actually add exposure to the very short existing 138 kV line, thus reducing reliability for BOC Gases. Improved reliability for other existing customers in the area following completion of the project will be due to reduced exposure on existing 34 kV lines that supply area substations. The reduced exposure will result after AmerenCIPS removes the 34 kV line sections that now supply WRR. AmerenCIPS plans to remove those sections of 34 kV line after WRR is transferred off of the 34 kV system and onto the 138 kV system. (AmerenCIPS Exhibit 1.0, ll. 118-125) Identical improvement to AmerenCIPS' 34 kV system would occur regardless of whether AmerenCIPS supplies WRR with one, two, three, or more 138 kV transmission lines. Staff's assertion that the second 138 kV transmission line that AmerenCIPS proposes is merely to improve reliability to WRR is accurate and based upon the record. If the Commission agrees with Staff's conclusion that WRB's request to AmerenCIPS for a second source of 138 kV is insufficient reason for the Commission to issue an Order pursuant to Section 8-503 of the Act for a second 138 kV transmission line, then the first full paragraph on page 14 of the Proposed Order should be modified to properly reflect that fact.

II. THE PROPOSED ORDER ALLOWS AMERENCIPS TO MANIPULATE EMINENT DOMAIN PROCEEDINGS AT THE COMMISSION

A. Affected Landowners Will be Denied Meaningful Participation in Eminent Domain Proceedings at the Commission

The Proposed Order provides no more than lip service to the rights of affected landowners in eminent domain proceedings at the Commission when it agrees with Staff how important it is “that landowners be given an opportunity to participate in an 8-406, 8-503 and 8-509 proceeding when their property rights are at issue”. (Proposed Order, p. 13) The problem here has nothing to do with either “proper notice pursuant to Commission rules” or the fact that landowners may participate at any phase of the Commission’s process, as the Proposed Order suggests. (*Id.*) The problem here is that landowners are unaware of the significance of Section 8-406 and 8-503 proceedings in terms of the potential taking of their property. Notice for proceedings regarding “Certificate of public convenience and necessity” (8-406) and “Additions, improvements and new structures; joint construction or other actions” (8-503) is not likely to cause landowners to understand that their property is at risk.

What is effective, however, is a notice received by a landowner regarding a Section 8-509 proceeding, 220 ILCS 5/8-509, because it is titled, “Eminent Domain”. Unfortunately, if AmerenCIPS does file a stand-alone eminent domain proceeding as the Proposed Order allows, landowner participation will be less meaningful because issues regarding route, design, construction schedule, and need will have already been resolved in the instant Section 8-406/8-503 proceeding. Allowing AmerenCIPS to segregate the Section 8-509 from the

Section 8-406/8-503 proceeding creates a loop-hole which AmerenCIPS can use to discourage or minimize landowner participation.

Staff believes that the potential for manipulation of eminent domain proceedings at the Commission must be immediately stopped or it will continue. While Staff agrees that there is no specific mandate in the Act that utilities “request relief under Sections 8-406, 8-503 and 8-509 simultaneously” (*Id.*), Staff recommends that the Commission instruct AmerenCIPS and future applicants that simultaneously request Certificates of Public Convenience and Necessity under Section 8-406 and authority under Section 8-503 to accompany their requests with requests for Section 8-509 eminent domain authority. These instructions will clarify the procedure to all participants involved, reduce the possibility that landowners are not fully aware of the consequences of a Section 8-406 and 8-503 proceeding, and give landowners a full opportunity to participate in the process. Absent this, AmerenCIPS and other utilities will continue to manipulate eminent domain proceedings at the Commission.

B. The Proposed Order is Inconsistent with a Long-Standing Illinois Supreme Court Case

The Proposed Order incorrectly concludes that “an 8-503 order does not conclusively render a later 8-509 proceeding a mere formality in obtaining eminent domain against property owners.” (Proposed Order, pp. 13-14) This short-sighted statement ignores, and is inconsistent with, long-standing case law in Illinois.

Historically, Sections 8-503 and 8-509 of the Act (formerly, Sections 50

and 59, respectively) have never been separate.¹ Sections 50 and 59 of the Illinois Public Utilities Act, Ill. Rev. Stat., Ch. 111 2/3, Pars. 50 and 63. *Public Service Co. of Northern Illinois v. Recktenwald*, 290 Ill. 314, 320 (1919) (“*Recktenwald*”) [Section 59 exists to make effective the Commission’s Section 50 Order]. *Cf. Service Pipe Line Co. v. Ruder*, 19 Ill. 2d 332, 336 (1960) [Commission’s power under Sections 50 and 59 of the Illinois Public Utilities Act, Ill. Rev. Stat., Ch. 111 2/3, Pars. 50 and 63]. In *Recktenwald*, the Illinois Supreme Court stated:

...It cannot be doubted that power may be conferred upon a corporation organized under authority of the General Assembly to serve the public by supplying the people with gas, electricity, heat and water, which can best be produced and distributed by such a corporation acting under State control, to take private property for the public uses of such corporation by the power of eminent domain...To that end it is within the general purview of the title to provide that if the commission, after hearing, shall find that the service is inadequate and that additions, extensions, repairs or improvements to or changes in the existing plant, equipment, apparatus, facilities or other physical property of any public utility ought reasonably to be made, or that a new structure or structures should be erected to promote the security or convenience of the public or in any other way to secure adequate service or facility, the commission may require the same to be made. That has been done by section 50 of the act and it is free from constitutional objection.

For the purpose of rendering the provision of section 50 effective and providing the method and means of requiring the improvement, changes or new structures, section 59 provides that when necessary for the construction of any alterations, additions, extensions or improvements ordered or authorized under section 50, any public utility may enter upon, take or damage private property in the manner provided for by the law of eminent domain. This is only a provision for making effective an order lawfully made, and comes within the established rule that any provision in

¹ The language in Sections 8-503 and 8-509 of the Act is substantially similar to the language in former Sections 50 and 59.

furtherance of the title or to render the provisions of an act effective is not in violation of the constitutional restriction. Without the power of eminent domain a lawful order for securing the public safety and convenience would be an idle ceremony, because private property could not be taken and appropriated to the required use. (Emphasis added)

As a result, a separate Section 8-509 proceeding before the Commission, as authorized by the Proposed Order (Proposed Order, p. 14), would have no purpose other than making effective the Commission's Section 8-503 Order. As such, contrary to the Proposed Order's assertion, a later Section 8-509 proceeding is truly a "mere formality" (*Id.*, p. 13).

C. The Proposed Order is Inconsistent with Other Recent Commission Orders

The Proposed Order's disagreement with "Staff's argument that issuing an order pursuant to 8-503 in essence guarantees eminent domain against landowners" is contrary to assertions in recent Commission Final Orders.² In Docket No. 05-0188, Commonwealth Edison Company ("ComEd") filed an Application for a Certificate pursuant to Section 8-406 of the Act and authority pursuant to Section 8-503 of the Act to construct, operate, and maintain new 345 and 138 kV electric lines. The Commission described Section 8-503 of the Act as follows in the Final Order:

Under the terms of Section 8-503 of the Act, when the Commission finds that improvements or additions to existing plant are necessary and ought reasonably be made, it is authorized to enter an order directing that the improvements be made. When such an order is entered, Section 8-509 of the Act then authorizes the utility to use

² Staff notes that the Final Order in Docket No. 06-0706, which was referenced in the Proposed Order to support the Commission's Conclusion regarding this issue, was not published or otherwise available on the date the Proposed Order was issued and remained unavailable for several days thereafter.

the power of eminent domain if necessary to obtain property necessary for the improvements. The issue before the Commission is whether an 8-503 order empowering ComEd to use eminent domain, should be entered in this case. (Order, Docket No. 05-0188, February 23, 2006, p. 1, Emphasis added)

This statement is consistent with a reading of Section 8-509 of the Act to mean that an Order granting Section 8-503 relief provides eminent domain authority without further action on the part of the utility. In other words, a Commission Order pursuant to Section 8-503 does, contrary to the assertion in the Proposed Order, guarantee a utility a grant of eminent domain authority.

Docket No. 05-0188 was bifurcated. Staff addressed the Section 8-406 Certificate and Section 8-503 authority separately. After reviewing ComEd's load projections, Staff agreed that ComEd needed an additional power source to downtown Chicago and opined that ComEd was capable of managing the construction. The Commission entered an Interim Order granting the Section 8-406 Certificate on November 8, 2005. The Section 8-503 issue of whether the Commission should order ComEd to construct the project was briefed separately. Staff was not convinced that ComEd had established that it needed eminent domain for several of the parcels for which it was requested and recommended against granting the Section 8-503 relief. The Commission rejected Staff's recommendation. The Final Order states:

In the Commission's view, the analysis under Section 8-406(b), where the Commission considers a number of factors, is the analysis which results in the approval of the route of the transmission lines and the site of the substation. Section 8-503, unlike Section 8-406(b), does not require the Commission to examine alternatives. Rather, the focus of Section 8-503 is whether the project is of such importance and necessity so as to direct the utility to complete it, using eminent domain if necessary.

The requirements suggested by Staff are not articulated in the Act or the Commission's rules, and have not been used in previous Commission decisions on Section 8-503 petitions. (*Id.*, p. 6, Emphasis added)

As such, the Proposed Order's assertion that a Section 8-503 Order does not guarantee eminent domain authority is inconsistent with the Commission's Final Order in Docket No. 05-0188, which states that Section 8-503 authority allows a utility to use eminent domain, if necessary.

The Proposed Order is also inconsistent with the Commission's Final Order in Docket No. 07-0310, in which ComEd requested a Section 8-406 Certificate to construct a new 138 kV electric transmission line. ComEd filed an Amended Petition seeking "an order, pursuant to Section 8-503 of the Act, granting eminent domain authority along the proposed route." (Order, Docket No. 07-0310, October 8, 2008, p. 1) Apparently, ComEd agrees with Staff that a Section 8-503 Order guarantees Section 8-509 eminent domain authority. Moreover, the Commission was of that very same opinion in Docket No. 07-0310, because it granted ComEd Section 8-509 eminent domain authority based upon the utility's meeting "its burden of proof with respect to Section 8-503." (*Id.*, p. 28)

The Commission's authorization of a future stand-alone Section 8-509 proceeding by AmerenCIPS (Proposed Order, p. 14) is inconsistent with its Final Orders in Docket Nos. 05-0188 and 07-0310 and with many other of its Final Orders which automatically grant Section 8-509 eminent domain authority to petitioners requesting Section 8-503 Orders (See *e.g.*, Final Orders in Docket Nos. 88-0342, 90-0206, 90-0427, 91-0113, and 96-0410). Staff believes that it

would benefit all parties appearing before the Commission in eminent domain proceedings to have this inconsistency resolved. Accordingly, Staff recommends that the Commission order AmerenCIPS, in all future Section 8-406/8-503 filings, to include in its petition a simultaneous request for Section 8-509 authority.

D. The Proposed Order Imposes a Requirement not Found in Section 8-509 of the Act

Staff disagrees with the Proposed Order's instruction to AmerenCIPS that in its future stand-alone Section 8-509 eminent domain proceeding, the Company "must establish that proper negotiations have been made with landowners in addition to satisfying this Commission that the construction of facilities is necessary." (Proposed Order, p. 14) These requirements are found nowhere in Section 8-509 and therefore, should not be inferred to be included in a Section 8-509 analysis.

E. Staff's Recommendation

Staff recommends, based on its analysis of the relationship between Sections 8-406, 8-503 and 8-509 of the Act, that the Commission should issue a Section 8-503 Order for only one of the proposed Transmission Lines – COP Sub Tap 2. Since when a Section 8-503 Order is entered, Section 8-509 of the Act then authorizes the utility to use the power of eminent domain, the Commission should also grant Section 8-509 eminent domain authority for COP Sub Tap 2.

AmerenCIPS proposed building the secondary line, COP Sub Tap 1, because WRB requested it for improved reliability. Since AmerenCIPS requires only COP Sub Tap 2 to provide service to WRR, and since a Section 8-503

Order would guarantee Section 8-509 eminent domain authority for the non-essential secondary line, Staff believes the Commission should not grant Section 8-503 authority to COP Sub Tap 1.

III. THE PROPOSED ORDER SHOULD INCLUDE A CONDITION REGARDING FINANCING THE PROPOSED CONSTRUCTION

The Proposed Order authorizes AmerenCIPS to construct the Transmission Lines without placing any conditions upon the financing of the construction. The 138 kV lines that AmerenCIPS proposes, if built, will supply electricity to only one customer, WRR. An anticipated load increase at WRR is the reason AmerenCIPS petitioned the Commission to construct the 138 kV transmission lines, and the only reason either new 138 kV transmission line would be necessary. (Proposed Order, p. 2) AmerenCIPS and WRB both made it very clear that the proposed line construction would cause neither AmerenCIPS nor its ratepayers any financial risk because WRB would fund the entire project. (AmerenCIPS Exhibit 1.0, ll. 152-156; WRB Exhibit 1.0, ll. 54-58) Based upon Staff's understanding that WRB would be paying for the project, Staff did not analyze whether the cost of the project, if borne by AmerenCIPS instead of WRB, would cause significant adverse financial consequences for the utility or its customers. (ICC Staff Exhibit 1.0, ll. 140-144) Because Staff's understanding is that WRB would pay all costs associated with constructing the proposed 138 kV transmission lines, Staff recommended that any Commission Order authorizing AmerenCIPS to construct the transmission lines include the condition that all costs for the project are borne by WRB Refining, LLC, or its successor. The

Commission then would not be obligating or authorizing, through its Section 8-503 Order, AmerenCIPS to construct the 138 kV transmission lines even if expansion at WRR progresses in a different manner than AmerenCIPS and WRB expect. (*Id.*, pp. 11-12) AmerenCIPS agreed with Staff's recommendation in this regard. (AmerenCIPS Exhibit 6.0, ll. 66-70) Staff therefore, recommends that an additional paragraph be included at the end of the Commission Conclusion section on page 14 of the Proposed Order in order to add financial security for AmerenCIPS and its ratepayers. A corresponding change should be made to Finding Paragraph (5).

IV. STAFF'S PROPOSED REPLACEMENT LANGUAGE

Consistent with Staff's recommendations herein, Staff suggests the following replacement language for pages 12 through 16 of the Proposed Order:

3. Commission Conclusion

* * *

This Commission agrees with Staff that it is important that landowners be given an opportunity to participate in an 8-406, 8-503 and 8-509 proceeding when their property rights are at issue; ~~however, the Commission is of the opinion that AmerenCIPS has demonstrated that proper notice pursuant to Commission rules was given to landowners in regards to its request for a Section 8-406 Certificate in this proceeding. If landowners choose to participate in any phase of an 8-406, 8-503 and/or 8-509 proceeding they may do so. The Commission does not believe that a landowner will wait to make their interests known late in the proceedings particularly after receiving proper notice. Moreover, the statute does not require a utility company to request relief under Sections 8-406, 8-503 and 8-509 simultaneously.~~ Landowners are a valuable source of information regarding the line route itself as they are in a unique position to be aware of not only their land, but the surrounding area and may be able to provide information necessary to have a full and complete record. The Commission wishes to encourage their

participation in proceedings that may affect their property rights. The taking of property is a very serious matter and must be treated as such. Informing property owners of what is at stake at the outset of a docket is important if they are to be given an opportunity to effectively represent their interests in the docket.

Furthermore, this Commission ~~does not agree~~ with Staff's argument that issuing an order pursuant to 8-503 in essence guarantees eminent domain against landowners, ~~and further rejects Staff's argument that in a later 8-509 proceeding the utility company need only reference the prior Commission order under Section 8-503 to receive eminent domain. To the contrary, t~~ The Commission believes that an 8-503 order ~~does not conclusively renders~~ a later 8-509 proceeding a mere formality in obtaining eminent domain against property owners. Accordingly, the Commission orders AmerenCIPS, in all future Section 8-406/8-503 filings, to include in its petition a simultaneous request for Section 8-509 authority. ~~First, no where under Section 8-503 does it contain language as to eminent domain and therefore, should not be inferred to include such language. Second, AmerenCIPS has not requested or made a showing for eminent domain authority. Furthermore, if it were AmerenCIPS intent to receive eminent domain, it must make this request under Section 8-509. At which time, AmerenCIPS must establish that proper negotiations have been made with landowners in addition to satisfying this Commission that the construction of facilities is necessary. To emphasize the above, this Order does not constitute a grant of eminent domain authority. This conclusion is consistent with the Commission's recent order in Docket No. 06-0706.~~

The Commission is of the opinion that the second line requested by WRB and proposed by AmerenCIPS is not only necessary required to satisfy the needs of its customers provide adequate service to WRR but also critical in improving reliability to its customers. ~~For Staff to assert that the second line is to merely improve reliability is simplifying the matter. The Commission believes that precautions must be taken to protect the public in the event of a breakdown. Therefore, the Commission finds that AmerenCIPS has presented evidence establishing the Transmission Lines are necessary to provide adequate, reliable, and efficient service to the WRR, which will increase its load demand due to the construction of additional facilities.~~

The Commission also finds that AmerenCIPS has presented evidence establishing each of the requirements under section 8-503 for both only one of the lines, COP Sub Tap 2. AmerenCIPS

has demonstrated that the conversion of the WRR's service from 34kV to 138kV will provide the added benefit of ~~strengthening~~ improving the reliability of the distribution system, ~~and providing~~ the additional ~~load demand~~ capacity required for additional ~~electric capacity~~ load at WRR, and providing adequate, efficient and reliable service in the surrounding areas of Hartford, Roxanna, and South Roxanna.

It is therefore the Commission's conclusion that an order pursuant to Section 8-503 be entered for ~~both one of the~~ one of the 138 kV transmission lines that AmerenCIPS proposes to construct, COP Sub Tap 2. Since when a Section 8-503 Order is entered, Section 8-509 of the Act then authorizes the utility to use the power of eminent domain, the Commission also grants Section 8-509 eminent domain authority for COP Sub Tap 2, if necessary to obtain property necessary for the construction.

All parties agree that the 138 kV transmission lines that are proposed to supply the load additions at WRR will be financed in their entirety by WRB. The Commission agrees with Staff and AmerenCIPS, therefore, that any order issued authorizing construction of the project should include a condition that neither AmerenCIPS nor its customers will bear any of the project costs.

V. FINDINGS AND ORDERING PARAGRAPHS

Having given due consideration to the entire record, the Commission is of the opinion and finds that:

- (1) AmerenCIPS is an Illinois corporation and is a public utility within the meaning of the Act;
- (2) the Commission has jurisdiction over AmerenCIPS and the subject matter of this proceeding;
- (3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the evidence and are hereby adopted as findings of fact and conclusions of law for purposes of this Order;
- (4) AmerenCIPS proposes to construct, operate, and maintain two new 138 kV electric transmission lines together with related facilities, to provide adequate, efficient, and reliable service to the WRR;

- (5) the proposed construction, subject to any conditions found reasonable herein, will promote the public convenience and necessity; the record demonstrates that: (i) the proposed construction is necessary to provide adequate, reliable, and efficient service to AmerenCIPS' customers and is the least-cost means of satisfying the service needs of the customers; (ii) AmerenCIPS is capable of efficiently managing and supervising the construction process and have taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (iii) WRB will pay AmerenCIPS in advance the cost of AmerenCIPS' construction of the project so that AmerenCIPS is capable of financing can complete the proposed construction without significant adverse financial consequences for the utility or its customers;
- (6) AmerenCIPS should be granted, subject to any conditions described above, a Certificate authorizing the construction, operation, and maintenance of Line 1 (COP Sub Tap 1) along the primary route and Line 2 (COP Sub Tap 2) along the primary route, as shown on AmerenCIPS Exhibit 3.1 and legally described on AmerenCIPS Exhibits 3.1A and 3.1D;
- (7) AmerenCIPS should be authorized to construct COP Sub Tap 2 ~~the project~~ pursuant to Section 8-503; ~~and~~
- ~~(8)~~ AmerenCIPS should be authorized to exercise eminent domain pursuant to Section 8-509, if necessary for the construction of COP Sub Tap 2; and
- ~~(89)~~ all motions, petitions, objections, and other matters in this proceeding which remain unresolved shall be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that a Certificate of Public Convenience and Necessity shall be issued to Central Illinois Public Service Company d/b/a AmerenCIPS pursuant to Section 8-406 of the Public Utilities Act, and that said certificate shall read as follows:

**CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY**

IT IS HEREBY CERTIFIED that the public convenience and necessity require (1) construction, operation, and maintenance by Central Illinois Public Service Company d/b/a AmerenCIPS of two 138 kV electric transmission lines over the routes found appropriate above and (2) the transaction of an electric public utility business in connection therewith, all as herein before set forth.

IT IS FURTHER ORDERED that Central Illinois Public Service Company d/b/a AmerenCIPS is authorized to construct COP Sub Tap 2 ~~the project~~ pursuant to Section 8-503 of the Public Utilities Act.

IT IS FURTHER ORDERED that Central Illinois Public Service Company d/b/a AmerenCIPS is authorized to take and condemn property necessary to construct COP Sub Tap 2 pursuant to Section 8-509 of the Public Utilities Act.

IT IS FURTHER ORDERED that Central Illinois Public Service Company d/b/a AmerenCIPS in all future Section 8-406/8-503 filings, include in its petition a simultaneous request for Section 8-509 authority.

* * *

V. STAFF'S PROPOSED ALTERNATIVE REPLACEMENT LANGUAGE

If the Commission disagrees with Staff's first exception that WRB's request to AmerenCIPS for a second source of 138 kV transmission line is insufficient reason for the Commission to issue an Order pursuant to Section 8-503 of the Act (*supra*, pp. 2-3), then the first full paragraph on page 14 of the Proposed Order should be modified to properly reflect the facts. Staff suggests the following alternative replacement language:

The Commission is of the opinion that the second line requested by WRB and proposed by AmerenCIPS is ~~not only~~ necessary to satisfy the needs of its customers WRR but also critical in improving reliability to its customers. ~~For Staff to assert that the second line is to merely improve reliability is simplifying the matter.~~ The Commission believes that precautions must be taken to protect WRR ~~the public~~ in the event of a breakdown. ~~Therefore,~~ ~~†~~The Commission finds that AmerenCIPS has presented evidence establishing the Transmission Lines are necessary to provide adequate, reliable, and efficient service to the WRR, which will increase its load demand due to the construction of additional facilities.

VI. CONCLUSION

For the foregoing reasons, Staff of the Illinois Commerce Commission respectfully requests that the Commission modify the Proposed Order consistent with Staff's recommendations herein.

Respectfully submitted,

A handwritten signature in black ink that reads "Linda M. Buell". The signature is written in a cursive, flowing style.

LINDA M. BUELL

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Commerce Commission

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